

**BOARD OF ENVIRONMENTAL REVIEW
AGENDA ITEM
EXECUTIVE SUMMARY**

For

Request to initiate rulemaking for numeric water quality standards for the Tongue River and Powder River, Little Powder River, Rosebud Creek and their tributaries for Electrical Conductivity (EC) and Sodium Adsorption Ratio (SAR).

AGENDA # III A. 2.

AGENDA ITEM SUMMARY

Coal bed methane (CBM) well water discharges have elevated salinity, expressed as electrical conductivity (EC), and sodium adsorption ratio (SAR) values. CBM development is coming to southeastern Montana, and requests for CBM water discharge permits may begin upon the completion of the joint state/federal EIS later this year. At the Board's direction, the department has developed two approaches to the application of numeric water quality standards to protect surface water quality, and requests initiation of rulemaking. The first alternative, Rule I, would establish a single numeric standard for EC and SAR that is specific to the Tongue River, Powder River, Little Powder River, Rosebud Creek, and their tributaries. The second alternative, Rule II, would establish different numeric standards for various reaches of the Tongue River and thereby allocate the assimilative capacity to producers in Montana, Wyoming, the Northern Cheyenne Reservation, and the Crow Reservation. Following public hearings and receipt of the hearings officer's recommendations, the Board will decide whether or not to adopt numeric standards, establish what the standards will be, and choose one of the alternative approaches for implementation presented.

LIST OF AFFECTED RULES

The Rules that may result from this effort will be new rules in ARM 17.30.601 et.seq.

AFFECTED PARTIES SUMMARY

Affected parties include all potential coal bed methane producers and all irrigators in the Montana portion of the Tongue and Powder River Basins and along Rosebud Creek.

SCOPE OF PROPOSED PROCEEDING

This action item would direct the department to initiate rulemaking to translate the existing narrative standards for EC and SAR to numeric standards.

BACKGROUND

Please see the summary given above.

HEARING INFORMATION

The Department requests that the Board schedule a public hearing for September 17, 2002 in Helena, MT and in Miles City on September 19, 2002 with the close of the public comment period on September 23, 2002.

BOARD OPTIONS

The Board may direct the department to initiate rulemaking, or may decline to do so.

DEQ RECOMMENDATION

The department recommends that the Board pass a motion to initiate rulemaking.

ENCLOSURES

Notices to initiate rulemaking for Alternatives I and II

Statement of Reasonable Basis for rulemaking

Supporting Technical Document

Department's Legal Analysis of Alternative II